

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

**UNITED STATES OF AMERICA,
Plaintiff,**

v.

**WAYNE A.G. JAMES,
Defendant.**

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NO. 15-CR-42-CVG-RM

JOINT NOTICE OF STATUS OF APPEAL AND MOTION FOR A NEW TRIAL DATE

Pursuant to this Court's July 14, 2017, Order, Dkt. No. 153, undersigned counsel provides the Court with a joint update on the status of defendant Wayne James's second interlocutory appeal. The defendant filed a notice of appeal on July 14, 2017. Dkt. No. 152. The case was docketed in the Third Circuit on July 24, 2017 (No. 17-2536). The appeal has been fully briefed by both parties and the Third Circuit held oral argument on December 12, 2017. The Third Circuit has not yet issued an opinion. The Court currently has the matter scheduled for trial on February 26, 2018. Dkt. No. 176.

Moreover, the parties have conferred and respectfully request the current trial date be vacated and instead be set for July 16, 2018, or later. A trial date at that time will provide the best opportunity for the Court and the parties to have a date certain should the Third Circuit affirm this Court's denial of the defendant's motion to dismiss and allow the case to proceed to trial. In another recent interlocutory appeal before the Third Circuit for a defendant's speech or debate claim, the Third Circuit did not release its final opinion until five months after argument on the matter. *See United States v. Menendez*, No. 15-3459 (3d Cir.). Like the case here, *Menendez* also was considered on an expedited schedule. Given that argument in the appeal for this matter occurred only two months ago, should the Third Circuit follow a similar schedule here as it did in *Menendez*, a July trial date will ensure sufficient time for the parties to subpoena witnesses, obtain

decisions on any pending motions in limine once the mandate returns, and be ready to begin at the date the Court sets. Moreover, as this Court is aware, the Government intends to call foreign witnesses who are not subject to service and require sufficient notice to arrange their schedules and make travel plans before they are willing to appear. They already have indicated that even thirty days' notice of a final trial date may prove insufficient for them to arrange their schedules.

For all of the foregoing reasons, the parties submit that it is in the interests of justice to continue the trial date to July 16, 2018 or thereafter.

DATED: February 15, 2018

Omodare Jupiter
Federal Public Defender

/s/ Omodare Jupiter
Omodare Jupiter
Federal Public Defender
Brendan Hurson
Assistant Federal Public Defender

Counsel for Wayne A.G. James

Respectfully submitted,

Gretchen Shappert
United States Attorney
District of the Virgin Islands

AnnaLou Tirol
Acting Chief, Public Integrity Section

/s/ Amanda R. Vaughn
Amanda R. Vaughn
Luke Cass
Trial Attorneys
Delia Smith
Assistant United States Attorney

Counsel for the United States

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of February, 2018, I electronically filed the foregoing **Joint Notice of Status of Appeal and Motion for a New Trial Date** with the Clerk of the District Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Omodare Jupiter, Esq.
Brendan Hurson, Esq.
Office of the Federal Public Defender
1115 Strand Street
St. Croix, VI 00820
Attorneys for Defendant Wayne A.G. James

By: /s/Amanda R. Vaughn
Amanda R. Vaughn
Trial Attorney
Department of Justice
Public Integrity Section
1400 New York Ave NW
Washington, DC 20005
Phone – 202.514.1412